

## REMARKS/ARGUMENTS

Claims 1 – 12 and 15 – 36 are presented for reconsideration and further examination in view of the foregoing amendments and following remarks. Claims 13 and 14 have been cancelled without prejudice or disclaimer to the subject matter contained therein. Applicant does not intend for the subject matter of the claims that have been cancelled in this application to be dedicated to the public.

In the outstanding Office Action, the Examiner objected to claims 13, 14 and 32 for failing to further limit the subject matter of a previous claim; rejected claims 15, 26 and 31 as being indefinite; rejected claims 1 and 3 – 14 under 35 U.S.C. §102(b) as being anticipated by Design Patent No. D478,957 to Rae (hereinafter referred to as “*Rae*”) and rejected claims 2 and 15 – 36 under 35 U.S.C. §103(a) as being unpatentable over *Rae* in view of matters considered old and well known to striking weapons.

By this Response and Amendment, original claims 1 and 34 have been amended to recite "...a first hand grip portion extending along a first direction and fitted at a first end..."; and "...wherein said first and third spike form a second hand grip portion extending only along a second direction generally perpendicular to said first direction." These features are fully supported by pg. 6, line 5 through pg. 7, line 15 of the original application, as well as by all the drawings of the original application, and in particular Figs. 5A and 5B. Also, claims 13 and 14 have been cancelled. Original claim 32 has been amended to recite that the instructions manual includes instructions teaching how to use the handheld weapon; claim 31 has been amended to depend from claim 1 and rephrased in light of the Examiner's rejection; claims 3, 5, 17, 18, 19, 21, 24 and 33 have been amended to indicate that the feature recited therein refers to the “first hand grip portion;” and the dependency of original Claim 20 has been changed to be dependent on original claim 19. It is respectfully submitted that the above amendments do not introduce any new matter to this application within the meaning of 35 U.S.C. §132.

### **Claim Objections**

The Examiner objected to claims 13, 14 and 32 for failing to further limit the subject matter of a previous claim. Applicant has cancelled claims 13 and 14 and has amended the claim 32 to place it in proper form. Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the objection to the claims.

### **Rejections Under 35 U.S.C. §112, Second Paragraph**

The Examiner rejected claims 15, 26 and 31 as being indefinite.

With respect to original Claim 15, Applicant submits that the term '*fur-like material*' is not an indefinite term since it relates to both to materials such as real fur and to materials such as synthetic fur. Hence the term '*fur-like material*', perfectly conveys the required meaning.

With respect to original Claim 26, the phrase "*soft material*" is referred to in the application, pg. 6, line 21 as a "*soft material such as foam or rubber.*" Therefore, the phrase "*soft material*" cannot be understood to include therein pliable material such as brass as suggested by the Examiner.

With respect to original Claim 31, the claim has been amended to recite more definite language. Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the objection to the claims.

### **Prior Art Rejections**

The Examiner rejected claims 1 and 3 – 14 under 35 U.S.C. §102(b) as being anticipated by *Rae* and rejected claims 2 and 15 – 36 as being unpatentable over *Rae* in view of matters considered old and well known to striking weapons. Applicant traverses the rejection since all of the features of the

presently claimed subject matter are not disclosed, taught or suggested by the cited prior art. For a reference to anticipate an invention, all of the elements of that invention must be present in the reference.

The test for anticipation under section 102 is whether each and every element as set forth in the claim is found, either expressly or inherently, in a single prior art reference. *Impax Laboratories Aventis v. Pharmaceuticals*, 468 F.3d 1366, 1381 (Fed. Cir. 2006). To establish a *prima facie* case of obviousness, the Examiner must show that the prior art references teach or suggest all of the claim features. *Amgen, Inc. v. Chugai Pharm. Co.*, 18 USPQ2d 1016, 1023 (Fed. Cir. 1991); *In re Fine*, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988); *In re Wilson*, 165 USPQ 494, 496 (CCPA 1970).

Independent claim 1 recites “[a] handheld defense weapon comprising a first hand grip portion extending along a first direction and fitted at a first end thereof with a first spike and at a second end thereof a second spike, said spikes facing in the same direction and a third spike at the first end extending in an opposite direction, wherein said first and third spike form a second hand grip portion extending only along a second direction generally perpendicular to said first direction.”

*Rae* discloses a knife with a designed blade and a designed hand grip portion, both having a plurality of ornamental features. The Examiner refers to these ornamental features as equivalent to the features defined in the claims of the present application, in particularly to the spikes defined in the claims. It should first be noted, that whereas all the features of *Rae* are ornamental (being the subject of a DESIGN application), they do not bear, nor are they intended to bear any functional features, all the more, features that are equivalent to the hand held weapon of the present application.

Furthermore, in contrast to amended claim 1, *Rae* does not disclose, teach or suggest that “... *first and third spike form a second hand grip portion extending only along a second direction generally perpendicular to said first direction.*” On the contrary, it is evident that the so called “1<sup>st</sup> spike” that the Examiner refers to, curls to extend essentially parallel, not perpendicular to the hand

grip portion of the knife, and the so called '2<sup>nd</sup> spike' the Examiner refers to curls to extend essentially parallel, not perpendicular to the blade portion of the knife.

With respect to the above explanation, it is clear that such a design as disclosed by *Rae*, would utterly fail to achieve the purpose for which the invention of the present invention is intended for. In particular, one of the reasons the hand held weapon of the present invention is designed as defined in the amended claim 1, is that it allows the use of at least the first and third spikes as spikes, i.e. having a pointy end which may be directed towards an opponent. It should therefore be completely clear that first, the disclosure of *Rae* does not disclose all of the features recited in amended claim 1. It should also be completely clear that a person skilled in the art could not, and would not have learned the construction of the hand held weapon of the presently claimed subject matter from the disclosure of *Rae*.

Accordingly, as all of the features of the presently claimed invention are not disclosed, taught or suggest by the cited prior art, the presently claimed invention is neither anticipated nor rendered obvious by the cited prior art. Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the outstanding rejections.

### CONCLUSION

In light of the foregoing, Applicant submits that the application is now in condition for allowance. If the Examiner believes the application is not in condition for allowance, Applicant respectfully requests that the Examiner contact the undersigned attorney if it is believed that such contact will expedite the prosecution of the application.

In the event this paper is not timely filed, Applicant petitions for an appropriate extension of time. Please charge any fee deficiency or credit any overpayment to Deposit Account No. 14-0112.

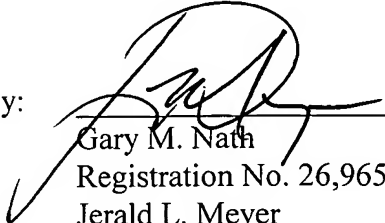
Appl. No. 10/588,999  
Reply to Office Action of April 30, 2008  
Attorney Docket No. 27624U

Respectfully submitted,

**THE NATH LAW GROUP**

Date: September 2, 2008  
THE NATH LAW GROUP  
112 South West Street  
Alexandria, VA 22314  
(703) 548-6284

By:



\_\_\_\_\_  
Gary M. Nath  
Registration No. 26,965  
Jerald L. Meyer  
Registration No. 41,194  
Derek Richmond  
Registration No. 45,771  
Customer No. 20529